

EXHIBIT D

United States District Court
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

ORDER SETTING CONDITIONS
OF RELEASE AND BOND

V.

Case No.: CR-09-255 DRH

Nicholas Cosmo
Defendant

RELEASE ORDER

It is hereby ORDERED that the above-named defendant be released as follows, subject to the Standard Conditions of Bond on the reverse and:

- ☐ Upon Personal Recognizance Bond on his/her promise to appear at all scheduled proceedings as required, or
☐ Upon Unsecured Bond executed by defendant in the amount of \$ _____, or
☒ Upon Secured Appearance Bond as provided herein.

Additional Conditions of Release

Upon finding that release under the standard conditions detailed on the reverse will not by themselves reasonably assure the appearance of the defendant and the safety of other persons and the community, IT IS FURTHER ORDERED that the defendant is subject to the following additional conditions of release:

- ☐ 1. The defendant must remain in and may not leave the following areas without Court permission: _____
☐ 2. The defendant shall avoid all contact and not associate with any of the following persons or entities: _____
☐ 3. The defendant shall avoid and not go to any of the following locations: _____
☒ 4. The defendant shall surrender any and all passports to the U.S. Pretrial Services Agency by _____ and shall not apply for any other passport.
☒ 5. Defendant is placed under the express supervision of the Pretrial Services Agency, subject to the Special Conditions on the reverse, if applicable, and
☒ is subject to random visits by a Pretrial Services officer at defendant's home and/or place of work;
☐ must report to that agency () in person _____ times per _____ and/or () by telephone _____ times per _____;
☒ is subject to home detention with electronic monitoring with the following conditions: No computer or device with internet access permitted in the home
☐ must undergo ☐ random drug testing ☐ evaluation and/or ☐ treatment, for ☐ substance abuse ☐ alcoholism: ☐ mental health problems.
☒ must pay the cost of treatment and/or electronic monitoring by with personal funds and/or insurance.
☒ 6. Other Conditions: SEE ATTACHED FOR ADDITIONAL CONDITIONS

APPEARANCE BOND

The undersigned defendant and sureties jointly and severally acknowledge that I/we and my/our personal representatives, jointly and severally, are bound to pay to the United States of America the sum of \$ 1,250,000

The undersigned agree(s) that this obligation is secured with his/her/their interest in the following property ("Collateral") which he/she/they represent is/are free and clear of liens except as otherwise indicated:

- ☐ cash deposited in the Registry of the Court the sum of \$ _____
☒ premises located at: Regel, Suarez and parents residences
☒ I/We also agree to execute a confession of judgment in form approved by the U.S. Attorney which shall be duly filed with the proper local and state authorities on or before _____
☐ Other Conditions: _____

X Nicholas Cosmo Address: 3178 Cherrywood Drive, Wantagh, NY

X Frances Regel Address: 224 North Utica Avenue, N. Massapequa NY

X Jennifer Suarez Address: 1027 Brandon Cove, Ridgeland, S. Carolina

The Court has advised the defendant of the conditions of release per 18:3142(h)(1) and (h)(2). This bond is conditioned upon the appearance of the defendant and is subject to the Standard Conditions of Bond set forth on the reverse. If the defendant fails to appear as ordered or notified, or any other condition of this bond is not met, this bond shall be due forthwith.

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth on the reverse of this form.

Release of the Defendant is hereby ordered on 7/23/09

Distribution: White-Original Copy - Courtroom Deputy Pink - Pretrial Services Goldenrod - Defendant

Standard Conditions of Release

In all cases, IT IS ORDERED that the release of the defendant is subject to the following conditions:

1. Defendant shall immediately advise the court, defense counsel, and the U.S. Attorney in writing of any change in address and/or telephone number.
2. Defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed as directed.
3. Defendant shall not commit any federal, state, or local crime.

The conditions of this bond are that the defendant named on the obverse is to appear before the Court and at such other places as the defendant may be required to appear, in accordance with any and all orders and directions relating to the defendant's appearance in this case, including appearance for violation of a condition of defendant's release as may be ordered or notified by this court or any other United States District Court to which the defendant may be held to answer or the cause transferred. The defendant is to abide by any judgment entered in such matter by surrendering to serve any sentence imposed and obeying any order or direction in connection with such judgment.

It is agreed and understood that this is a continuing bond (including any proceeding on appeal or review) which shall continue until such time as the undersigned are exonerated.

If the defendant appears as ordered or notified and otherwise obeys and performs the preceding conditions of this bond, then this bond is to be void, but if the defendant fails to obey or perform any of these conditions, payment of the amount of this bond shall be due forthwith. Forfeiture of this bond for any breach of its conditions may be declared by any United States District Court having cognizance of the entitled matter on the obverse at the time of such breach and if the bond is forfeited and if the forfeiture is not set aside or remitted, judgment may be entered upon motion in such United States District Court against each debtor jointly and severally for the amount above stated, together with interest and costs, and execution may be issued and payment secured as provided by the Federal Rules of Criminal Procedure and any other laws of the United States.

Special Conditions of Release

1. If defendant is subject to home detention, defendant may not leave his/her residence without the approval of the Pretrial Services Agency, except for court appearances and visits with defense counsel in this pending criminal case and for medical emergencies. In all instances, however, the defendant must notify the Pretrial Services Agency of his or her departure from the residence.
2. If the defendant fails to report as required to the Pretrial Services Agency or to appear for any specified treatment or evaluation, defendant may be subject to such random visits at his/her residence or work by a Pretrial Services Officer as may be necessary to verify his/her residence or place of employment in order to secure compliance with the order of release.

Advice of Penalties

If defendant violates any of the preceding conditions of release, a warrant will issue for his/her arrest and the terms and conditions of any further release will be reconsidered. Such reconsideration can result in a revocation of release, an order of detention, the forfeiture of any previously posted bail, and a prosecution for contempt, the latter of which could result in a term of imprisonment and/or a fine. In addition, if the defendant fails to appear as required, he/she could be prosecuted for failing to appear and, if found guilty, be subject to imprisonment for up to ten years and/or fined up to \$250,000 depending upon the offense charged.

The commission of any offense while on pretrial release may result in an additional sentence upon conviction for such offense of up to ten years, depending on the offense. Defendant is advised that it is a criminal offense to intimidate or attempt to intimidate a witness, juror, or officer of the court, or to obstruct a criminal investigation, or to tamper with a witness, victim, or informant, or to retaliate against a witness, victim, or informant, or to threaten or to attempt to do so. These offenses are punishable by up to ten years of imprisonment and a \$250,000 fine. The term(s) of imprisonment imposed for any of the foregoing offenses shall be consecutive to the sentence of imprisonment for any other offense and must be imposed in addition to the sentence received for the offense itself.

It is hereby ORDERED that the above-named defendant be released as follows, subject to the Standard Conditions of Bond on the reverse and:

- ☐ Upon Personal Recognizance Bond on his/her promise to appear at all scheduled proceedings as required, or
☐ Upon Unsecured Bond executed by defendant in the amount of \$ _____, or
☒ Upon Secured Appearance Bond as provided herein.

Additional Conditions of Release

Upon finding that release under the standard conditions detailed on the reverse will not by themselves reasonably assure the appearance of the defendant and the safety of other persons and the community, IT IS FURTHER ORDERED that the defendant is subject to the following additional conditions of release:

- ☐ 1. The defendant must remain in and may not leave the following areas without Court permission: _____
☐ 2. The defendant shall avoid all contact and not associate with any of the following persons or entities: _____
☐ 3. The defendant shall avoid and not go to any of the following locations: _____
☒ 4. The defendant shall surrender any and all passports to the U.S. Pretrial Services Agency by _____ and shall not apply for any other passport.
☒ 5. Defendant is placed under the express supervision of the Pretrial Services Agency, subject to the Special Conditions on the reverse, if applicable, and
☒ is subject to random visits by a Pretrial Services officer at defendant's home and/or place of work;
☐ must report to that agency () in person _____ times per _____ and/or () by telephone _____ times per _____
☒ is subject to home detention with electronic monitoring with the following conditions: No computer or device with internet access permitted in the home
☐ must undergo () random drug testing () evaluation and/or () treatment, for () substance abuse () alcoholism () mental health problems.
☒ must pay the cost of treatment and/or electronic monitoring by with personal funds and/or insurance.
☐ 16. Other Conditions: _____

APPEARANCE BOND

The undersigned defendant and sureties jointly and severally acknowledge that I/we and my/our personal representatives, jointly and severally, are bound to pay to the United States of America the sum of \$ 1,250,000

The undersigned agree(s) that this obligation is secured with his/her/their interest in the following property ("Collateral") which he/she/they represent is/are free and clear of liens except as otherwise indicated:

- ☐ cash deposited in the Registry of the Court the sum of \$ _____
☒ premises located at: Kegei Suarez and Parents residences

I/We also agree to execute a confession of judgment in form approved by the U.S. Attorney which shall be duly filed with the proper local and state authorities on or before _____

- ☐ Other Conditions: _____

Address: 3178 Cherrywood Drive, Wantagh, NY
Address: 224 North Utica Avenue, N. Massapequa NY
Address: 1027 Brandon Cove, Ridgeland, S. Carolina

The Court has advised the defendant of the conditions of release per 18:3142(h)(1) and (h)(2). This bond is conditioned upon the appearance of the defendant and is subject to the Standard Conditions of Bond set forth on the reverse. If the defendant fails to appear as ordered or notified, or any other condition of this bond is not met, this bond shall be due forthwith.

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth on the reverse of this form.

Release of the Defendant is hereby ordered on

Signature of Defendant

US 1

Distribution:

White-Original

Canary - Courtroom Deputy

Pink - Pretrial Services

Goldenrod - Defendant

ATTACHMENT TO BOND FOR NICHOLAS COSMO

Bond Amount - \$1.25 million secured by three homes listed below and bank accounts listed below.

Suretors

Nicholas Cosmo- (father) dob 10/27/36
Annunziata Cosmo-(mother) dob 3/25/42
Thomas Cosmo- (brother) dob 1/10/64
Frances Cosmo Kegel- (sister) dob 1/31/75
James Kegel- (Brother in law)dob 8/31/76
Jennifer Suarez- (friend) dob 1/27/81

Homes securing bond

Nicholas and Annunziata Cosmo(Life Estate)
Frances Cosmo Kegel and Thomas Cosmo(future interest)
3178 Cherrywood Drive
Wantagh, NY 11793
Appraised Value- \$410,000
Equity- approximately \$398,000

Frances and James Kegel
224 North Utica Avenue
North Massapequa, NY
Appraised Value- \$504,000
Equity-\$34,000

Jennifer Suarez
1027 Brandon Cove
Ridgeland, South Carolina
Appraised Value- \$218,000
Equity- \$19,000

Bank Accounts Securing Bond

Nicholas and Annunziata Cosmo
Citibank Money Market Account number 16568303
Amount as of 5/31/09 - \$138,158.17
Amount to be frozen - \$135,000

Annunziata Cosmo
Citibank Savings Account number 72810766
Amount as of 5/31/09- \$15,811.96 (Entire amount listed to be frozen)

James Kegel
Verizon Pension Account (401k)
Account Number 0337732
Amount as of 4/29/09: \$50,233.07 (Entire Amount listed to be frozen)

SPECIAL CONDITIONS

- Defendant to be released and subject to home confinement at his parents home located at 3178 Cherrywood Drive, Wantagh NY.
- Defendant to be subject to electronic home detention and monitored by Pre-Trial Services.
- Defendant is subject to random visits and random phone calls by Pre-Trial Services.
- Defendant to supply and pay for phone line for the purposes of the electronic monitoring
- Defendant may not leave the premises without prior consent of Pre-Trial Services including for medical reasons.
- With the prior consent of Pre-Trial Services, the defendant may leave the premises to meet with his counsel at the Federal Courthouse located at 100 Federal Plaza, Central Islip for the purposes of document review at the offices of the U.S. Attorney. All other meetings with defense counsel will take place at the place of home confinement at 3178 Cherrywood Drive, Wantagh, NY.
- If the defendant leaves the premises for any of the above reasons, he must be escorted by Robert Knapp (or another designated security officer) of the security firm of Andrews International, Inc., located at 475 Park Avenue South, 12th Floor, New York, NY. (347) 220-6944.
- All internet access by the defendant is prohibited by the Court. If the premises of the home confinement currently has internet access, it must be disconnected prior to the defendant's arrival at the home. The defendant may not have any electronic device (including but not limited to a cell phone or blackberry) that enables him to access the internet.
- Defendant may not have access to a computer.
- If the defendant has a cell phone or blackberry with internet access, that device must be given to pre-trial services.
- The telephone in the parent's home will be subject to 24 hour monitoring by Andrews International, Inc. and paid for by the defendant.
- The defendant is prohibited from outside employment.
- Defendant is prohibited from conducting any business within the home - which includes any business that requires a fiduciary responsibility by the defendant or a business which is financial in nature.
- The defendant is prohibited from raising money from any third party. If defendant requests to raise money for the purposes of his defense, such request must be made through his counsel with a letter provided to the government for its review before it is disseminated. The letter will then be sent to the Court for the Court's approval.
- The pension account and bank accounts being offered by the suretor's as collateral must be frozen so that money may not be transferred from them.
- Defendant may not transfer any assets directly or indirectly.
- Appraisals, title searches and lien searches must be conducted on the homes being pledged for collateral prior to defendant's release to home confinement.
- Defendant must surrender his U.S. Passport to Pre-Trial Services and not apply for any other Passport while out on home confinement.